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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 12th February 2008

No. 1658—li/1(BH-1)-3/2008 -L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 26th October 2007 in I. D. Case No. 95 of 1993 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of Secretary, Balasore District Co-operative Central Bank Ltd., Balasore and its Workman Shri Sadananda Sahoo was referred for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO.95 OF 1993

Dated the 26th October 2007

Present :

Shri S. K. Mohapatra, o.s.j.s. (Jr. Branch),
Presiding Officer, Labour Court,
Bhubaneswar.

Between :

The Management of Secretary, Balasore, . . . First Party—Management
District Co-operative Central Bank Ltd.,
Balasore.

And

Its Workman Shri Sadananda Sahoo . . . Second Party—Workman

Appearances :

None . . . For First Party—
Management

Shri N. Mohanty, Advocate . . . For Second Party—
Workman.

AWARD

The Government of Orissa, in the Labour & Employment Department referred the present dispute between the Management of Secretary, Balasore District Co-operative Central Bank Ltd., Balasore and its workman Shri Sadananda Sahoo, under Notification No.14679-L.E., dated the 21st October 1991 vide memo No. 8351-L.E., dated the 5th July 1993 for adjudication by this Court.

2. The terms of reference by the State Government is as follows :

“Whether the action of the Secretary, Balasore District Co-operative Central Bank Ltd., Balasore in discharging Shri Sadananda Sahoo from service vide Order No. 10125, dated the 12th January 1988 is legal and/or justified ? If not, what relief Shri Sahoo is entitled to ? ”

3. Shorn of all unnecessary details, the case of the workman is as follows :

The workman was appointed as Cadre Secretary under the Basudevpur Branch of Balasore District Co-operative Central Bank Ltd., Balasore (hereinafter referred to as the management Bank) on the 28th May 1979. The workman was an efficient and sincere worker. From time to time the workman was transferred by the authorities to different Branches of the management Bank as Secretary and finally the workman was transferred to Katasahi Service Co-operative Society in the district of Balasore. While the workman was working as Secretary under Katasahi Service Co-operative Society (in short S.C.S.) the authorities ordered his transfer to Rahania S.C.S. under Bhandaripokhari Branch of the management Bank, but the workman was not allowed to handover charge vide resolution No. 3, dated the 13th August 1983. As because the workman did not join his new place of posting, the authorities placed him under suspension vide order dated the 12th October 1983 for disobedience of orders. After receipt of the suspension order, the workman repeatedly asked the management to communicate the grounds for his suspension but there was no response from the management. After lapse of more than two years, the management served a charge sheet on the workman on 20 heads of charges. The charges included negligence in duty, disobedience of orders/instructions of the higher authorities, misappropriation of funds of the S.C.S. The workman denied the charges and submitted his explanation to the chargesheet accordingly. Since the explanation of the workman was found not satisfactory, Shri Satyanarayan Mohaty, Advocate was appointed as Enquiry Officer to enquire into the charges, The Enquiry Officer did not conduct the enquiry fairly and properly in accordance with rules and no opportunity was given to the workman to put forth his defence properly. No sufficient opportunity had been given to the workman to cross-examine the witnesses of the management. After the witnesses of the management were examined, the workman wanted to give witness in his defence but he was not allowed to do so. The Enquiry Officer after enquiry submitted his enquiry report. After receipt of the enquiry report, the workman was directed by the management to show cause as to why his service should not be terminated. After receipt of the show cause notice, dated the 15th September 1987 the workman submitted his show cause which the management found not to be satisfactory and therefore, referred the matter to the Appointment

Committee of the management Bank for final decision in the matter. The Appointment Committee of the management Bank after considering the show cause and the enquiry report found the workman guilty of the charges and vide order, dated the 12th January 1988 discharged the workman from service. Further contention of the workman is that while the Enquiry Officer did not find him guilty of the charges Nos. 7,9, 10, 13, 17,18 and 20 found him guilty of the charge Nos. 5, 6, 8, 11,12, 14,15, 16 and 19 on evidence which were not legal. Although there was absolutely no evidence that the workman was in the habit of manipulation and interpolation of documents, the Enquiry Officer found him guilty of such charge without there being any materials on records. After receipt of the order of discharge from service, the workman filed a review petition on the 24th February 1988 and demanded for a fresh enquiry but nothing was done by the management. Therefore, the workman raised an industrial dispute before the District Labour Officer, Bhadrak on the 15th December 1989 who tried for a conciliation which ultimately failed and culminated in the present reference to this Court for adjudication.

4. The management has been set *ex parte* vide order, dated the 22nd August 2007

5. The workman has examined himself as W.W.1 and has filed affidavit evidence, during the course of which he has proved the xerox copies of seven numbers of documents. In his evidence the workman has deposed that he was transferred as Secretary to Rahania S.C.S. but he was not allowed to handover the charge to join at Rahania S.C.S. by the Board of Management vide resolution No. 3, dated the 13th August 1983 and that despite of such resolution he was placed under suspension. According to W.W.1 the management served a charge sheet consisting of 20 charges which included disobedience, negligence of duties and misappropriation of funds. According to W. W.1 he submitted a reply to the management but the management did not consider his reply and appointed Shri Satyanarayan Mohanty , Advocate as Enquiry Officer. Further evidence of W. W. 1 is that he has not been given opportunity to cross-examine the witnesses of the management and was not allowed to produce his witnesses to adduce evidence before the Enquiry Officer. Further evidence of W.W.1 is that the whole enquiry was found vitiated and not maintainable in the eye of law. The Enquiry Officer submitted his enquiry report after which the Secretary issued a show cause notice, basing on which the workman submitted a show cause notice but the same was not considered duly and thereafter the workman was discharged from service vide order, dated the 12th January 1988. Further evidence of W.W.1 is that the Secretary of the management has no authority to issue a show cause notice and that he had not given reasonable opportunity to defend himself. Further evidence of W.W.1 is that by an application, dated the 24th February 1988 he demanded a fresh enquiry which was turned down by the management. Apart from this evidence through affidavit, the workman has proved xerox copy of his letter of appointment as Ext . 1. Xerox copy of the order, dated the 11th October 1983 under which he was placed under suspension as Ext. 2. Xerox copy of the order, dated the 12th January 1988 under which he was discharged from service as Ext. 3 and the minutes of the Board Meeting, dated the 13th August 1983 of Katasahi S.C.S. as Ext. 6 and the relevant resolution as Ext. 6/a. Exts. 4 and 5 are not very much material for determination of this case. Ext. 2 shows that the

Secretary issued the letter of order of suspension as per the order of the President of the management Bank. Thus Ext. 2 is not an action of the Secretary himself but it is the order of the Board of management headed by the President of the management Bank. Therefore, there is no illegality in the order Ext. 2. The Appointment Committee of the management Bank on considering the enquiry report and the explanations submitted by the workman and the show cause submitted by him discharged the workman from service. Nothing has been brought to my notice to show that the management Bank in any way acted illegally in passing the order Ext. 3. The bald evidence of the workman that the enquiry had not been held properly and he had not been allowed to cross-examine the witnesses of the management or that he had not been given a chance to examine his witnesses are all self serving evidence of W.W.1 which has not been supported by any other documents and has been corroborated by any other witness. The workman had deliberately withheld the details of the charge as against him and the enquiry report along with the proceeding from the purview of this Court. In such circumstances the self serving evidence by itself is not sufficient to hold that the enquiry as against the workman which included the charges ranging from disobedience of higher authorities, negligence in duty be misappropriation of funds was vitiated in any manner whatsoever. Hence in such a situation it can never be held that the action of the management of Balasore District Co-operative Central Bank Ltd., Balasore in discharging the workman Shri Sadananda Sahoo from service vide order, dated the 12th January 1988 is anyway illegal or unjustified. Therefore, the workman of the present case is not entitled to any relief whatsoever.

The reference is answered accordingly *ex parte*.

Dictated and corrected by me.

S. K. MOHAPATRA

26-10-2007

Presiding Officer

Labour Court, Bhubaneswar

S. K. MOHAPATRA

26-10-2007

Presiding Officer

Labour Court, Bhubaneswar

By order of the Governor

K. TRIPATHY

Under-Secretary to Government